

§ 1201.23

Finding Aids section of the printed volume and at www.fdsys.gov.

§ 1201.23 Computation of time.

In computing the number of days allowed for filing a submission, the first day counted is the day after the event from which the time period begins to run. If the date that ordinarily would be the last day for filing falls on a Saturday, Sunday, or Federal holiday, the filing period will include the first workday after that date.

Example: If an employee receives a decision notice that is effective on July 1, the 30-day period for filing an appeal starts to run on July 2. The filing ordinarily would be timely only if it is made by July 31. If July 31 is a Saturday, however, the last day for filing would be Monday, August 2.

[54 FR 53504, Dec. 29, 1989, as amended at 59 FR 31109, June 17, 1994]

§ 1201.24 Content of an appeal; right to hearing.

(a) *Content.* Only an appellant, his or her designated representative, or a party properly substituted under § 1201.35 may file an appeal. Appeals may be in any format, including letter form. An appeal may be filed in electronic form provided that the requirements of § 1201.14 have been satisfied. All appeals must contain the following:

- (1) The name, address, and telephone number of the appellant, and the name and address of the agency that took the action;
- (2) A description of the action the agency took and its effective date;
- (3) A request for hearing if the appellant wants one;
- (4) A statement of the reasons why the appellant believes the agency action is wrong;
- (5) A statement of the action the appellant would like the judge to order;
- (6) The name, address, and telephone number of the appellant's representative, if the appellant has a representative;
- (7) The notice of the decision to take the action being appealed, along with any relevant documents;
- (8) A statement telling whether the appellant or anyone acting on his or her behalf has filed a grievance or a formal discrimination complaint with any agency regarding this matter; and

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(9) The signature of the appellant or, if the appellant has a representative, of the representative. If the appeal is electronically filed, compliance with § 1201.14 and the directions at the Board's e-Appeal site (<https://e-appeal.mspb.gov>) satisfy the signature requirement.

(b) An appellant may raise a claim or defense not included in the appeal at any time before the end of the conference(s) held to define the issues in the case. An appellant may not raise a new claim or defense after that time, except for good cause shown. However, a claim or defense not included in the appeal may be excluded if a party shows that including it would result in undue prejudice.

(c) *Use of Board form or electronic filing.* An appellant may comply with paragraph (a) of this section, and with § 1201.31, by completing MSPB Form 185, or by completing all requests for information marked as required at the e-Appeal site (<https://e-appeal.mspb.gov>). MSPB Form 185 can be accessed at the Board's Web site (<http://www.mspb.gov>).

(d) *Right to hearing.* Under 5 U.S.C. 7701, an appellant has a right to a hearing.

(e) *Timely request.* The appellant must submit any request for a hearing with the appeal, or within any other time period the judge sets for that purpose. If the appellant does not make a timely request for a hearing, the right to a hearing is waived.

[54 FR 53504, Dec. 29, 1989, as amended at 68 FR 59862, Oct. 20, 2003; 69 FR 57629, Sept. 27, 2004]

§ 1201.25 Content of agency response.

The agency response to an appeal must contain the following:

- (a) The name of the appellant and of the agency whose action the appellant is appealing;
- (b) A statement identifying the agency action taken against the appellant and stating the reasons for taking the action;
- (c) All documents contained in the agency record of the action;
- (d) Designation of and signature by the authorized agency representative; and
- (e) Any other documents or responses requested by the Board.